

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

KATHLEEN E. PERKINS,  
Executrix of the Estate of Ruth M. Day,  
Deceased,

Plaintiff,

:

Case No. 3:07-cv-325

-vs-

:

District Judge Walter Herbert Rice  
Magistrate Judge Michael R. Merz

JOHN PAUL RIESER, ESQ.,  
Co-Trustee and Individually, et al.,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

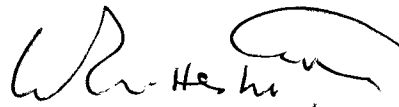
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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. No. 39), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Defendants' Motion to Dismiss (Doc. No. 26) be, and it hereby is, denied as moot without prejudice to the arguments made therein.

February 27, 2012.



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Walter Herbert Rice  
United States District Judge